IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Court's order whether the case is or not approved for reporting

(Chapter VIII, Rule 32(2)(b)

Description of Case

Crl. Misc Application No. 461 of 2006

Date of decision:- 27-6-2006

Dated:- 27/6/2006

~~**A.F.R. (Approved for Reporting)**~~

Not approved for reporting

Date:- 27-6-2006 Initials of Judge

Note:- Bench Reader will attach this at the top of the first page of the judgment when it is put u p before the Judge for signature.

HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Misc. Application No. 461 of 2006

Sanwant Kumar Jain
S/o Shri Kaspoor Chand Jain
R/o 155 Khudbuda Mohalla Block I
P.S. Kotwali
District Dehradun ....Applicants

Versus

1. State of Uttaranchal
2. CJM Dehradun
   Ramesh Kumar S/o Sukkar Ram
   R/o Village Rajiv colony
   Malin BAsti
   Bllorpur Road
   P.S. Kotwarli
   District Dehradun ....Respondents

Sri Hari Mohan Bhatia learned counsel for the applicant.
Sri Amit Bhatt learned A.G.A. for the State.

Hon'ble J.C.S. Rawat, J.

1. The petition under section 482 Cr.P.C. has been filed with the prayer that the applicant may be granted 15 days time to apply for bail n order to get the benefit granted by the order dated 02.11.2001.

2. The fact of the case in a nutsheel is the respondent no.3-Ramesh Kumar lodged an FIR against the applicant under section 147, 452, 504, 506, IPC and section 3(x) Xv S.C. & S.T. Act police station kotwali District Dehradun. On the basis of the FIR, the case crime number was registered in the police station. Thereafter the police investigated the matter and submitted the chargesheet against the applicant. The Magistrate took cognizance against the applicant vide order dated 13.06.2000 and a criminal case No. 788/2000 was registered. Feeling aggrieved by this, the applicant-accused preferred a petition under section 482 Cr. P.C. to challenge the chargesheet and the

cognizance order. The said petition was disposed of on 02.11.2001 in which this Court has held that the magistrate shall apply his mind on the chargesheet submitted by the police and in case he finds that the chargesheet is based on no material, he may drop the proceedings. It was further directed that in case prima facie case is made out the Magistrate shall proceed according to law and shall frame the charge against the applicant. This Court has also directed Magistrate to consider the bail application of the applicant on the same day.

3. Thereafter, the applicant did not appear before the court below. On 10.06.2006 the police raided the house of the applicant while he was not there and the police informed his family members that the court has issued non-bailable warrants against him. Now, the applicant has preferred the present petition with the prayer that he may be granted 15 days time to apply for bail and to get benefit of the order dated 02.11.2001 passed by this Court.

4. To was contended on behalf of the applicant that the applicant was ill and he could not appear before the court below. It was contended that the age of the applicant is 66 years and as such he may be granted 15 days time to apply for bail and the benefit of order dated 02.11.2001 many also be given to him. Learned AGA refuted the contention. Perusal of the record reveals that the order was passed by this Court in the year 2001 and the applicant did not appear before the court below inspite of the order. He had vaguely stated that he was ill and, as such, it would not be just and proper to grant further time after a lapse of five years. There are latches on the part of the applicant and as such he is not

entitled to get the benefit of the order passed by this court. It would be just and proper for the applicant to move an application before the court below alleging the grounds for non-appearance and the applicant should apply his surrender and thereafter he should apply for bail.

5. The Petition is disposed of accordingly. All the mending miscellaneous application(s) in this case, if any, shall stand disposed of accordingly.

(J.S.C. Rawat, J.)

Dated 27.06.2006
LSR